



Lesley Nugent,  
Head of Industry Codes and Licensing,  
Ofgem,  
10 South Colonnade,  
Canary Wharf,  
London,  
E14 4PU

20<sup>th</sup> June 2018

Dear Lesley,

### **Proposed modifications to SoLR supply licence conditions**

Thank you for the invitation to respond to the above consultation. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain. We have a mission to fight fuel poverty and be a force for social good.

#### Executive Summary

Bristol Energy welcomes Ofgem's proposals to extend the protection of credit balances for customers of failing suppliers. However, we are concerned that whilst the proposals are right in principle, their practical application will be difficult to achieve and make the prospect acting as a Supplier of Last Resort less attractive.

The key issue is the reliability and access to the required data required to support this process. In some cases, the reason for the failure of a supplier may be a data meltdown which has caused the supplier to be unable to bill customers accurately because they have no robust data as to what customers have used or paid for. More likely, access to the required data is dependent on the failing supplier's administrator, who's priority is to maximise the return to creditors, not customer protection. Without the required data, the supplier of last resort will be unable to meet the commitments made to protect the credit balances of customers.

We also believe that Ofgem should ask BEIS to review in conjunction with Industry the Energy Supply Company Administration regulations. These regulations were put into place in 2013 when the market structure and players were fundamentally different to now, with numerous suppliers of varying sizes, and the new commitment to protect credit balances. When the regulations were put in place it was assumed that the largest suppliers would always come forward to act as SoLR for smaller parties without recourse to claiming costs. Recent events have shown that not to be the logical course any more.

We believe that Ofgem should consider and be able to use the administration scheme where it is in the best interest of all customers, even if there is a supplier of last resort solution, and not just when SoLR is not possible as is the current Government position.

we have answered specific questions below, expanding our response as necessary.

#### **Q1. Do you agree with the intent of the proposed changes?**

We agree with the intent of the proposed changes, although question if they are workable in practice, and whether Ofgem has considered the impact on all energy customers who will pick up the costs of these proposals through the mutualisation process via network companies.

#### **Q2. Do you agree that the draft licence changes deliver the intent?**



The draft licence changes could deliver the intent except that the failing supplier's administrator is no longer bound by licence and has no obligation to co-operate with the Supplier of Last resort. Without that cooperation then the licence changes cannot deliver the intent.

Experience from supplier failures in 2006 has shown that settling a failing supplier's liquidation can take up to 5 years, and thus we feel that asking the SoLR to submit claims for covering credit balances taking into account any funds received from the liquidators makes the SoLR process unattractive from a cash flow point of view. We would also ask whether the supplier of last resort can claim against the liquidator for the credit balances, if the customer with the credit balance has also placed a claim against the failed supplier.

**Q3. Do you consider there are any potential unintended consequences of the proposed changes that we have not identified?**

We believe the proposed changes will make volunteering to act as the Supplier of Last resort unattractive and in certain cases force Ofgem to direct a Supplier of Last resort. Even if there is a party willing to act as SoLR, then they are likely to increase their claim to recover costs due to the significant increase in time before such a claim can be made as they must take into account any monies received from the liquidator.

**Q4. Do you have any comments on the proposed licence drafting, set out in Annex 1?**

We have no comments on the drafting.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby".

Chris Welby  
Head of Regulation